

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

SCOTT D. DALESANDRO, et al.,	:	Case No. C-1-01-109
On behalf of themselves and	:	
all others similarly situated,	:	Judge Sandra S. Beckwith
	:	
Plaintiffs,	:	
	:	
v.	:	PLAINTIFFS' MOTION FOR
	:	COURT APPROVAL OF CLASS
THE INTERNATIONAL PAPER	:	<u>COMMUNICATION</u>
COMPANY,	:	
	:	
Defendant.	:	(Exhibits attached)
	:	

MOTION

Plaintiffs move the Court to approve a letter from Class Counsel to the class members informing them of the status of the case and the Court's ruling that Plaintiffs' claims for vacation pay are not included in this lawsuit. The proposed communication is attached hereto as Exhibit A and has been sent with a proposed Entry to the Court via electronic mail in Word and WordPerfect formats.

MEMORANDUM IN SUPPORT

Background

By Court Ordered Notice dated September 23, 2003 (Doc. #50) the class members were informed that this action had been certified, that judgment had been entered, and that they had certain rights and obligations related to their participation or exclusion from the action. In response to that Notice, many class members sent letters to Defendant and to Plaintiffs' counsel questioning the calculation of their severance benefits because the calculations did not include

the employees' earned but unused vacation pay. The parties brought these objections to the Court's attention, and the Court set a briefing schedule to address the issue of whether vacation pay should be included (Doc. #55). Plaintiffs moved for approval of a communication to the class which informed them that the issue was being briefed and would be decided by the Court (Doc. #56). After the parties submitted separate drafts of a proposed letter, the Court approved a communication which was sent to all class members which explained that the Court would consider and decide the issue and that they would be informed of the result (Doc. #58).

Instant Motion

The Court has recently ruled that Plaintiffs' claims for vacation pay are not included in this lawsuit (Order dated January 13, 2004, Doc. #63). Plaintiffs now move the Court to approve a letter to the class members informing them of the status of the case and the Court's ruling. Plaintiffs sent a draft of their proposed letter to Defendant via electronic mail on February 2, 2004 and requested Defendant's review and comments so that Plaintiffs' could submit a letter to the Court with the representation that Defendant did not object; Defendant did not respond. Groh Declaration, Exhibit B. Plaintiffs made another attempt to obtain agreement and left a telephone message in defense counsel's voicemail on February 11, 2004 making the same request; Defense counsel did not respond. Id. Accordingly, Plaintiffs are filing the instant motion so that the class members can be informed of the status of the case and the Court's ruling.

Based upon the foregoing, Plaintiffs respectfully move the Court to grant their request and to approve the letter from Class Counsel to the class members which is attached as Exhibit A. A proposed Entry granting Plaintiffs' Motion and Plaintiffs' proposed letter has been transmitted to the Court via electronic mail in Word and WordPerfect formats.

Respectfully submitted,

s/Theresa L. Groh

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Trial Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2004 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Michael Roberts, Esq., Graydon, Head & Ritchey LLP, 1900 Fifth Third Center, 511 Walnut Street, Cincinnati, Ohio 45202, and I hereby certify that I have mailed the document by United States Postal Service to the following non CM/ECF participants: W. Carter Younger, Esq. and James P. McElligott, Esq., McGuire Woods, LLP, One James Center, 901 East Cary Street, Richmond, VA 23219-4030.

s/Theresa L. Groh

Theresa L. Groh

EXHIBIT A

February ___, 2004

To: All Class Members in
Dalesandro, et al. v. International Paper Company,
Case No. C-1-01-109
United States District Court for the Southern District of Ohio

This letter is being sent to you to inform you that the Court has ruled that employees' claims for vacation benefits are not a part of this lawsuit. We, as your class counsel, will make the decision whether to appeal this ruling after the Court decides Plaintiffs' motion for attorney fees, costs, interest and incentive awards, and then enters its final judgment. Thank you for your patience.

Sincerely,

Theresa Groh

John Murdock

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

SCOTT D. DALESANDRO, et al.,	:	Case No.: C-1-01-109
	:	
Plaintiffs,	:	Judge Sandra S. Beckwith
v.	:	
	:	
THE INTERNATIONAL PAPER COMPANY,	:	
	:	
Defendant.	:	

DECLARATION OF THERESA L. GROH

I, Theresa L. Groh, under penalty of perjury pursuant to 28 U.S.C. 1746, declare that:

1. I am an attorney admitted to practice in the Courts of Ohio and the United States District Court for the Southern District of Ohio, and I represent the Plaintiffs in this case.
2. On February 2, 2004 I sent to James McElligott, counsel for Defendant, via electronic mail, Plaintiffs' draft of their proposed letter to the class members. In that same e-mail, I requested Defendant's review and comments so that Plaintiffs' could submit a letter to the Court with the representation that Defendant did not object to the form and substance of the communication. Defendant did not respond.
3. On February 11, 2004, I called Mr. McElligott in another attempt to submit an agreed letter to the Court, and left a telephone voicemail making the same request as I had made in the e-mail the week before. Defendant did not respond.

So declared this 18th day of February 2004, Cincinnati, Ohio.

s/Theresa L. Groh
Theresa L. Groh